

APPEAL NO. 020800
FILED MAY 7, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held beginning January 2, 2002, and continuing March 5, 2002, with the record closing March 5, 2002. The hearing officer resolved the issues before him by determining that the respondent (claimant) was entitled to supplemental income benefits for the first and second compensable quarters. The appellant (carrier) appealed, challenging, on sufficiency grounds, the findings concerning the claimant's medical "narrative" and the claimant's unemployment being a direct result of his compensable injury of _____. The claimant responded, urging affirmance.

DECISION

The hearing officer's decision has become final pursuant to Section 410.169, because the carrier's appeal was not timely filed with the Texas Workers' Compensation Commission (Commission).

The applicable law governing this case, Section 410.202 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)), requires that an appeal, to be timely, must be filed or mailed not later than the 15th day after the date of receipt of the hearing officer's decision **and** received by the Commission not later than the 20th day after the date of receipt of the hearing officer's decision. Currently, a party who wishes to appeal the decision and order must file a request for review not later than 15 days after the date on which such decision is received from the Commission's Division of Hearings, pursuant to Section 410.202, which was amended June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in the Government Code in the computation of the 15-day appeal and response periods.

Records of the Commission show that the hearing officer's decision was distributed Thursday, March 7, 2002, with a cover letter of the same date. The carrier states that it was served with the decision on Monday, March 11, 2002. However, Commission records show that the carrier's Austin representative received the hearing officer's decision on the day it was distributed to the parties, Thursday, March 7, 2002. Receipt by the carrier's Austin representative is acknowledged and evidenced by the signature on a copy of the hearing officer's decision with the notation that the decision was received on Thursday, March 7, 2002. Since, under Rule 156.1(a), the carrier's representative acts as the carrier's agent for receiving notices from the Commission, receipt of the hearing officer's decision by the carrier's representative is receipt by the carrier.

Using the current calculation method, the request for review in this case had to be mailed no later than Thursday, March 28, 2002, and received by the Commission no later than Thursday, April 4, 2002. The carrier's request for review was postmarked Monday, April 1, 2002, and was received by the Hearings Division of the Commission Thursday,

April 4, 2002. Though the carrier's appeal was received on the 20th day after the carrier's receipt of the hearing officer's decision, it was not postmarked within the 15-day time frame required by the rule, and both time periods must be met. The carrier's appeal is therefore untimely.

The appeal being untimely, the jurisdiction of the Appeals Panel was not properly invoked and the decision and order of the hearing officer have become final under Section 410.169.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Philip F. O'Neill
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Roy L. Warren
Appeals Judge